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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,238	02/11/2002	Hans-Jurgen Brehm	MERCK-2387	9123
23599	7590	08/31/2004	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			SHOSHO, CALLIE E	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/071,238	<b>Applicant(s)</b> BREHM ET AL.	
	<b>Examiner</b> Callie E. Shosho	<b>Art Unit</b> 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-5,7-9 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5,7-9 and 11-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. All outstanding rejections are overcome by applicants' amendment filed 6/14/04.

The following rejection is non-final in light of the use of a new reference against the present claims, namely, Overholt et al (U.S. 6,702,967), which was published after the preparation of the previous office action by the examiner.

**Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 3-5, 7-9, and 11-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Overholt et al. (U.S. 6,702,967) taken in view of the evidence given in either Neefe (U.S. 4,639,105) or Rathschlag et al. (U.S. 2003/0176536).

Overholt et al. disclose plastic part, i.e. molded article, comprising thermoplastic polymer, assistant for plastic processing, up to 65% glass microsphere possessing average particle size of 5-500  $\mu\text{m}$ , and platelet pigment including interference pigment, liquid crystal pigment, and mica, alumina, or silica coated with metal oxide. It is disclosed that the plastic part is formed by injection molding. Further, there is disclosed process wherein the above pigment and filler are incorporated into the plastic (col.1, lines 9-11,

col.4, lines 58-60, col.5, lines 20-33 and 61-62, col.6, lines 8-12, 25-35, and 46-51, and col.7, lines 25-29). Although there is no explicit disclosure regarding the diameter of the pigment, Overholt et al. do disclose using pigments known under the tradenames Chromaflair and Afflair which are well known, as evidenced by Rathschlag et al. (paragraph 16) and Neefe (col.3, lines 32-35), to possess particle size of 11-13 microns and 1 micron to 110 microns, respectively.

Although there is no disclosure that the alignment of the platelets is other than substantially parallel with the surface of the plastic part, given that the platelet pigment is mixed with filler identical to that presently claimed whose presence would affect the alignment of the pigment, it is clear that the alignment of the platelet would inherently be other than substantially parallel with the surface.

Further, although there is no disclosure that the plastic part exhibits pronounced glitter effect, given that Overholt et al. disclose pigment, i.e. platelet-shaped interference pigment and liquid crystal pigment, and filler identical to that presently claimed, it is clear that the plastic part would also inherently possess glitter effect as presently claimed.


In light of the above, it is clear that Overholt et al. anticipate the present claims.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Callie E. Shosho  
Primary Examiner  
Art Unit 1714

CS  
8/27/04